

**ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

March 1, 2021

1:30 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Roger Holland, Vice Chair
Senator Gary Stevens
Senator Joshua Revak (via teleconference)
Senator Elvi Gray-Jackson

MEMBERS ABSENT

All members present.

COMMITTEE CALENDAR

SENATE BILL NO. 45

"An Act raising the minimum age to purchase, sell, exchange, or possess tobacco, a product containing nicotine, or an electronic smoking product; relating to transporting tobacco, a product containing nicotine, or an electronic smoking product; relating to the taxation of electronic smoking products; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 45

SHORT TITLE: AGE FOR NICOTINE/E-CIG; TAX E-CIG.

SPONSOR(s): SENATOR(s) STEVENS

01/25/21	(S)	PREFILE RELEASED 1/15/21
01/25/21	(S)	READ THE FIRST TIME - REFERRALS
01/25/21	(S)	L&C, FIN
02/19/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/19/21	(S)	Heard & Held
02/19/21	(S)	MINUTE(L&C)
03/01/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

DR. MELINDA RATHKOPF, MD
Medical Director
Allergy, Asthma and Immunology Center of Alaska
Anchorage, Alaska
POSITION STATEMENT: Provided supporting testimony on SB 45.

MICHELLE KETCHUM, representing self
Anchorage, Alaska
POSITION STATEMENT: Invited testimony in support of SB 45.

KATHY STEWART, representing self
Anchorage, Alaska
POSITION STATEMENT: Testified in support of SB 45.

ALEX MCDONALD, representing self
Fairbanks, Alaska
POSITION STATEMENT: Testified in opposition to SB 45.

ALYSSA KEILL, representing self
Fairbanks, Alaska
POSITION STATEMENT: Testified in support of SB 45.

SARAH EATON, representing self
Wasilla, Alaska
POSITION STATEMENT: Testified in opposition to the tax portion of SB 45.

SHAWN D'SYLVA, Co-Founder
Clear the Air Alaska
Anchorage, Alaska
POSITION STATEMENT: Testified in opposition to taxation related to SB 45.

CHARLES EDGE, representing self
Fairbanks, Alaska
POSITION STATEMENT: Testified in opposition to portions of SB 45.

JAMIE MORGAN, Senior Government Relations Director
American Heart Association (AHA)
Sacramento, California
POSITION STATEMENT: Testified in support of SB 45.

RYAN TUNSETH, representing self
Kenai, Alaska
POSITION STATEMENT: Testified in opposition to SB 45.

JOHN BERRIER, Senior Director of State Government Affairs
JUUL Labs
Sacramento, California

POSITION STATEMENT: Testified in opposition to the taxation provision in SB 45.

CARRIE NYSSSEN, Senior Director of Advocacy
American Lung Association

POSITION STATEMENT: Testified in support of SB 45.

GREGORY CONLEY, President
American Vaping Association (AVA)
Medford, New Jersey

POSITION STATEMENT: Testified in opposition to the tax portion of SB 45.

JAY OKU, Government Relations Director
Five Pawns
Orange County, California

POSITION STATEMENT: Testified in opposition to SB 45.

LINDSEY STRAUD, Policy Analyst
Tax Payers Alliance
Washington, D.C.

POSITION STATEMENT: Testified in opposition to the taxation portion of SB 45.

ALEX CLARK, CEO,
Consumer Advocates for Smoke-free Alternatives Association
Plattsburgh, New York

POSITION STATEMENT: Testified in opposition to SB 45.

KATIE STEFFENS, Public Health Specialist
Division of Public Health
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions and provided information related to SB 45.

JOE DARNELL, Investigator
Tobacco Section
Division of Behavioral Health
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions and provided information related to SB 45.

ACTION NARRATIVE

1:30:23 PM

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:30 p.m. Present at call to order were Senators Holland, Gray-Jackson, Stevens, and Chair Costello.

SB 45-AGE FOR NICOTINE/E-CIG; TAX E-CIG.

1:30:58 PM

CHAIR COSTELLO announced the consideration of SENATE BILL NO. 45, "An Act raising the minimum age to purchase, sell, exchange, or possess tobacco, a product containing nicotine, or an electronic smoking product; relating to transporting tobacco, a product containing nicotine, or an electronic smoking product; relating to the taxation of electronic smoking products; and providing for an effective date."

She advised that public testimony would follow invited testimony. She listed the individuals available to answer questions.

1:32:13 PM

At ease

1:33:38 PM

CHAIR COSTELLO reconvened the meeting.

1:33:59 PM

DR. MELINDA RATHKOPF, MD, Medical Director, Allergy, Asthma and Immunology Center of Alaska, Anchorage, Alaska read the following supporting testimony on SB 45 into the record:

Good afternoon Chairwoman Costello and members of the committee. My name is Dr. Melinda Rathkopf and I am the medical director of the Allergy, Asthma and Immunology Center of Alaska. I am board certified in Allergy/Immunology and Pediatrics. I am here today representing the AK chapter of the American Academy of Pediatrics and the AK State Medical Association. I appreciate the opportunity to provide testimony in support of Senate Bill 45.

I have been a practicing physician for over 20 years and a very strong advocate for tobacco prevention. I

grew up in the deep South and tobacco was a way of life. My parents smoked and unfortunately I buried a parent due to lung cancer. My father's wedding gift to me was to quit smoking; unfortunately it contributed to his death also. I raised my two girls understanding the dangers of tobacco. Imagine my disbelief when I walked to my high school daughter's room and found her and her friends vaping. Here was my child, who would never think of smoking a cigarette, holding an e-cigarette. Unfortunately e-cigarettes are incredibly appealing to our youth and since 2014 are the most popular nicotine product used by teens. We had made steady progress in reducing the smoking rate in AK but now e-cigs is threatening that progress. It was introduced as a safe alternative to smoking and a tool to even quit smoking. Unfortunately this has not turned out to be true, evidence does not support this claim. e-cigarette use itself can lead to lung cancer, emphysema and heart attacks. And what it is doing to our youth is alarming.

1:35:39 PM

Current E-cigarette use by high school students MORE THAN DOUBLED between 2017 to 2019, from 11.7% to 27.5% and even more alarming, current E-cigarette use by middle school students MORE THAN TRIPLED between 2017 to 2019, from 3.3% to 10.5%. In 2017 15.7% of AK high school students reported having used e-cigarettes. This climbed to 26.1% in 2019, just 2 years.

We know that kids that use e-cigarettes are more likely to use traditional cigarettes in the future and that 95% of adult smokers today started smoking before the age of 21. The teenage and young adult brain is still developing and when exposed to nicotine, whether in an e-cigarette or regular cigarette, the pathways that lead to addiction are altered. Addiction to nicotine is quicker and quitting is harder for teenagers. This also leads to an increase in mood disorders, attention difficulties and increases their risk of addiction to other substances. Even in adults, e-cigarette use is highest among 18-24 year olds, the young adult.

Fortunately we have ways to reduce tobacco use. Raising the purchase age to 21 is a very important

part of this plan. In 2015, the Institute of Medicine (now the National Academy of Medicine) concluded that raising the minimum legal sales age for tobacco products nationwide would reduce tobacco initiation, particularly among adolescents aged 15 to 17, improve health across the lifespan, and save lives; and that raising the minimum legal sales age for tobacco products nationwide to 21 would, over time, lead to a 12 percent decrease in smoking prevalence, would result in 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer, and 4.2 million fewer years of life lost for those born between 2000 and 2019, and would result in near immediate reductions in preterm birth, low birth weight, and sudden infant death syndrome.

1:37:32 PM

Three-quarters of adults support raising the minimum legal sales age for tobacco products to 21, including seven out of ten adults who smoke.

In short, we have a duty to protect the future health of our teens and young adults. Passing Senate Bill 45 is an important step to limiting adolescents' access to these products in our state. We have an opportunity to make a lasting impact here.

Thank you for your time today and allowing me to speak.

CHAIR COSTELLO asked if there were questions.

1:37:58 PM

SENATOR HOLLAND asked if she had a stand on the tax portion of the bill. He related that his constituents' concern is that they have used e-cigarettes to stop smoking tobacco and they believe a tax would make it more difficult to use these products.

DR. RATHKOPF replied she believes that the benefit of raising the taxes far outweighs the risk because, despite anecdotal evidence, the data does not show that e-cigarettes are an effective cessation device. She suggested that these people look at other nicotine replacement options and cessation techniques.

1:39:40 PM

At ease

1:41:20 PM

CHAIR COSTELLO reconvened the meeting and advised that the next testifier was invited to provide testimony on SB 45.

1:41:57 PM

MICHELLE KETCHUM, representing self, Anchorage, Alaska, related that she received a call from her daughter's school asking for permission to call 911 because her daughter was hallucinating and then passed out. She later learned that her daughter briefly stopped breathing and the school nurse did chest compressions until the paramedics arrived. The paramedics checked her vital signs and determined that she was okay and that there was no harm in sending her home. She said the paramedics indicated that they see this frequently.

MS. KETCHUM related the back-story on her daughter, including that she was experiencing post-traumatic stress disorder (PTSD). She was admitted to the hospital in October 2020 on suicide watch and when she was released in November, she asked her brother for a Dab Pen, which is a way to take synthetic marijuana. He brought one home the next night and gave it to her the next morning before school. Ms. Ketchum said her son smoked some and her daughter apparently took a large hit, which is what caused her to stop breathing.

MS. KETCHUM said this was the second time her daughter used marijuana and what led to it was nicotine. When she was released from the hospital, she started vaping and quickly became addicted by using Puff Bars. She explained that a regular Puff Bar contains 400 puffs, which is equivalent to a pack of cigarettes and a Puff Bar Plus contains 800 puffs, which is equivalent to two packs of cigarettes. Her daughter was able to get these readily, particularly via Snapchat. She was trying to quit and was told that it was better to use marijuana because there were fewer bad side effects. She continued:

This is an intelligent girl who is a straight A student who is kind-hearted and hard working. And in a couple of months was severely addicted to nicotine, which is readily available.

Part of the problem with this vaping, is that these vape things are undetectable. It was happening in my home, with doors open. You can't smell it you can't see it. It is very - it's indiscrete. Kids are doing it in the bathrooms at schools. They can hide it in their sleeves and do it in classrooms. ... And the

nicotine in those devices is so powerful and those kids get hooked very, very quickly. And they can't stop. It is very difficult for them to stop.

MS. KETCHUM emphasized that companies that sell vaping products specifically market to young children to get this new generation addicted to nicotine. She maintained that people who do not believe that vaping is a stepping-stone are ignorant.

1:49:41 PM

SENATOR GRAY-JACKSON asked how her daughter was doing.

MS. KETCHUM replied she is not using nicotine or marijuana, but there were consequences for her behavior. She is receiving counseling and will be allowed to attend school online, but she will not be able to attend the graduation ceremony with her class. She said her kids believe that half the high school has a problem with these substances and 70 percent of juniors and seniors have a problem. "Even when you have kids you don't know how prevalent this is," she said.

CHAIR COSTELLO asked her to describe why these devices are so difficult to detect, particularly the way they are packaged.

MS. KETCHUM said a regular Puff Bar looks like a USB pen and the Puff Bar Plus is larger, brightly colored and advertises friendly flavors that masks the taste of nicotine. She said you would not know what it is by looking at it and the vape leaves no telltale sign. She added that it is particularly frustrating that federal legislation does not address these disposable products. She suggested the committee check with other states that have passed legislation and noted that truthinitiative.org is a good resource.

1:56:02 PM

SENATOR STEVENS asked if she believes that raising the price will result in fewer kids purchasing these products.

MS. KETCHUM said she did not believe so and she did not believe that taxation was the right approach either. If the products are taxed, she suggested using that money to enforce existing laws and to start programs in schools to help kids find a way to break their addiction.

SENATOR STEVENS questioned whether raising the age would help.

MS. KETCHUM said raising the age is a better option than taxation, but it's the manufacturers/suppliers that should be targeted. "I'm all about people having businesses and making a living, but we have to protect our children," she said.

CHAIR COSTELLO thanked her for the testimony.

MS. KETCHUM thanked the members for their work and reiterated that SB 45 needs to do more to address marketing and advertising vaping products.

[2:00:26 PM](#)

CHAIR COSTELLO opened public testimony on SB 45.

[2:00:38 PM](#)

KATHY STEWART, representing self, Anchorage, Alaska, said that as a nurse, mother, grandmother, and former smoker she is concerned about how e-cigarette use is affecting youth in the state and country. These products are not an approved cessation device and in addition to nicotine, they contain chemicals like propylene glycol and formaldehyde that are known to be harmful to the lungs. She said the laws to protect youth from tobacco related health hazards helped reduce cigarette use and now it is necessary to pass legislation to protect them from unregulated tobacco products like e-cigarettes.

[2:03:28 PM](#)

ALEX MCDONALD, representing self, Fairbanks, Alaska, shared that he has not smoked since 2013 and he attributes it to e-cigarette products. He stated opposition to SB 45 because portions are already outdated. He highlighted that Congress further limited online cigarette sales and included vaping products so FedEx, UPS, and DHL will not ship vaping products and he wasn't sure that vape shops would be able to get these products. He also advised that distribution of Puff Bars in the U.S. ceased last fall so they won't be marketed much longer. He maintained that many of the e-cigarette sources that youth rely on are becoming more regulated so it will be more like shipping firearms, which is business-to-business or license-to-license. He said these changes will limit access, particularly in Bush communities.

MR. MCDONALD cited Public Health England that said e-cigarettes are "95 percent safer than smoking cigarettes at a conservative estimate," the FDA that "recognized them as a modified risk product," and former head of the FDA Dr. Gottlieb who identified cigarettes as the riskiest products and vape products as low risk along with other nicotine replacement therapies.

MR. MCDONALD credited e-cigarettes as the reason that he and his entire family quit smoking. He noted that he submitted an article from the New England Journal of Medicine that said vapor products are "two to three times more effective in cessation than traditional nicotine therapy." Furthermore, Public Health England recently released a report that described vaping as the most commonly used method for smokers to quit smoking and had the highest success rates. He pointed out that, "Just because the FDA doesn't recognize it as a cessation product doesn't mean that people aren't using it as one. I did. I know it works."

MR. MCDONALD posited that taxing these products will cause people to resume smoking, and raising the age will needlessly make young adults criminals. He characterized the bill as more likely to do harm than good.

2:07:17 PM

ALYSSA KEILL, representing self, Fairbanks, Alaska, reported that she is a part-time swim coach for about 80 middle schoolers. When she asks them about vaping and whether they know kids who vape, they are uncertain about why they shouldn't try it but always say they know students who have tried or currently vape. She suggested that there is confusion because of the misleading message that vaping is safer than smoking, but they do understand nicotine addiction.

She said she is interested in SB 45 because it recognizes that vaping products are nicotine products and treats them as such. She characterized increasing the age for purchase to 21 and taxing e-cigarettes at the level as other tobacco products as a step in the right direction.

2:09:17 PM

SARAH EATON, representing self, Wasilla, Alaska, reported that she started smoking at age 15 and she bought them from the corner store or got an adult to make the purchase. She posited that kids today find it similarly easy to get these products, regardless of the age barrier or the tax.

She said vaping saved her life. This is evidenced by the fact that doctors today can no longer find either emphysema or COPD on her lungs and she had both nine years ago when she started vaping. "They are healed from what combustible cigarettes did to me."

MS. EATON said she opposes just the tax portion of SB 45 because it will make the vaping product she uses unaffordable. Wasilla

already has a 55 percent tax on vaping products and the added tax will bring the total to 130 percent. She agreed that children should not have access to vaping products, but she believes it falls to parents to educate their children to keep them from putting anything but air in their lungs. She concluded her comments asking the committee to look more closely at what the federal government has done to regulate vaping products.

2:14:09 PM

SHAWN D'SYLVA, Co-Founder, Clear the Air Alaska, Anchorage, Alaska, stated that he owns three vaping stores in Alaska and his goal is to eliminate the use of combustible cigarettes wherever he is located. He highlighted that he has helped almost 80,000 adults stop smoking in the last eight years. He confirmed earlier testimony that the additional 75 percent wholesale tax will translate to a 130 percent wholesale tax in both Anchorage and Wasilla and highlighted that it will not affect young people who are buying these products on Snapchat, not legitimate stores.

He advised that e-liquid is the primary component in vaping products and it has just four ingredients: propylene glycol, vegetable glycerin, nicotine, and flavoring. Anybody who has smoked understands that tobacco does not taste good. They would prefer to stop and on way to do that it to use vaping products. He said UK Public Health annually updates a study on vaping and last week said that vaping is twice as effective as any other cessation method. Their goal is to eliminate combustible cigarettes by 2030.

MR. D'SYLVA acknowledged that vaping is not perfectly safe, but posited that it is a safer alternative that should be encouraged. He said it is unfortunate that kids are getting vaping products but it is the parents' responsibility to ensure their kids are not doing that. He also disputed the claim that vaping is a gateway to smoking, pointing out that combustible cigarette usage in the U.S. is the lowest it has ever been. He concluded his comments restating that he absolutely opposes the taxation provision in SB 45.

2:18:37 PM

CHARLES EDGE, representing self, Fairbanks, Alaska stated that he opposes portions of SB 45 and increasing the age threshold in particular. He related that he returned to Alaska after he left military service because some of the laws in Virginia were draconian, and it breaks his heart to see that Alaska is considering similar legislation. He said he understands the

desire to keep kids from using vaping products, but if somebody is old enough to stand trial as an adult and old enough to serve in the military, he cannot fathom not allowing them to "take advantage of being an actual adult." He attested, from personal experience, that vaping is a lot better than smoking or dipping.

2:21:58 PM

JAMIE MORGAN, American Heart Association (AHA), Sacramento, California, said the data shows that Alaska has made progress in reducing cigarette use, particularly among youth. However, the increased use of e-cigarettes, particularly among youth, is reversing that progress. She said the tobacco industry has long targeted Alaska's youth and e-cigarette use is an increasing crisis among teens. Further, the National Academies of Sciences, Engineering, and Medicine have cited substantial evidence that youth or young adults who use e-cigarettes are increasingly likely to use traditional cigarettes. They are falsely marketed as a safe alternative and youth are targeted. To address this epidemic among teens, the AHA supports public policies like those in SB 45 that regulate and tax e-cigarettes like tobacco and raise the legal age to sell or purchase to 21. AHA believes that those who sell tobacco to minors and the industry that aggressively markets to young people and profits from their ensuing addiction should be held accountable.

MS. MORGAN said the data shows that increasing the tax on tobacco products and e-cigarettes is a win-win. Significantly increasing the tax results in fewer kids who start to smoke and more adults who quit. She offered to provide more information on the British study.

CHAIR COSTELLO asked her to send the testimony to her office.

2:24:36 PM

RYAN TUNSETH, representing self, Kenai, Alaska, said he opposes SB 45 because federal law already addresses many of the online sales and implementing the bill will just make people criminals when they have an addiction. He agreed with Mr. McDonald's comments more than the comments from the American Heart Association and said he would prefer to see the committee work on things that are more important.

2:26:31 PM

JOHN BERRIER, Senior Director of State Government Affairs, JUUL Labs, Sacramento, California, stated that JUUL Labs is focused on building constructive relationships with regulators, policy makers, and other stakeholders to earn trust and reduce the

potential harm for adult smokers. JUUL looks forward to working with stakeholders in Alaska to achieve full implementation of Tobacco 21, he said.

2:27:24 PM

MR. BERRIER highlighted that underage use of e-cigarettes in the U.S. is trending down. The 2020 National Youth Tobacco Survey found that past 30-day e-cigarette use among high school students decreased almost 30 percent from 2019. He also reported that the Monitoring the Future 2020 Survey Results found that the previous rise in underage e-cigarette use either slowed or reversed. He said JUUL fully supports the age provision in SB 45.

In addition to the commitment to combat underage use through evidence-based intervention like T 21, he said JUUL also supports robust regulations weighted in favor of harm reduction. Thus, the company is concerned that the tax provision of SB 45 because adult smokers may continue smoking or former smokers may return to combustible cigarettes. He pointed to a study in the Journal of Risk and Uncertainty that estimated that the 95 percent wholesale tax on vape products in Minnesota deterred 32,000 adult smokers in the state from transitioning away from cigarettes. He suggested that Alaska could see similar results. Furthermore, some adult consumers may seek out cheaper products through illicit markets that predominantly occur outside of tax regulation. This could cause responsible retailers in Alaska to lose business and reduce expected revenue to the state, he said.

MR. BERRIER summarized that the company supports T 21 as an effective policy to combat underage use of tobacco/vapor products, but does not support the tax provision and respectfully requests its removal. He offered to engage with the committee and other stakeholders to develop a thoughtful risk-proportionate tax framework for all tobacco and nicotine products.

CHAIR COSTELLO asked for JUUL's national marketing budget and questioned why the company designs its products to look like things typically used in the classroom.

MR. BERRIER answered that the company stopped all marketing and advertising in fall 2019 as part of their PMTA submission and intends to submit a plan to the FDA that targets adult consumers of cigarettes.

In response to the second question, he maintained that the products were designed to be most effective for adult smokers to transition off the products.

CHAIR COSTELLO asked what the acronym "PMTA" stands for.

MR. BERRIER replied it stands for the premarket tobacco application. The FDA required all companies that make vapor and other nicotine products to submit their applications for review by November 2020. The agency will determine, by September 2021, whether the products can remain on the market.

2:34:21 PM

CARRIE NYSSSEN, Senior Director of Advocacy, American Lung Association, stated that the ALA strongly supports taxing electronic cigarettes and other tobacco products. Increasing prices is a tool that works to decrease use, encourage consumers to quit, and delay youth from using the products. She emphasized heating toxic chemicals for inhalation is not safe or healthy. Further, the flavorings added to entice youth and make the taste more palatable can cause inflammation in the lungs. She said some of the flavorings have been approved as food additives, but they are not designed for inhalation.

In response to earlier testimony about a study from England that allegedly shows these products are safer than cigarettes, she said the weekly peer reviewed medical journal, "The Lancet," rebutted the claim in an editorial. It also pointed out that some on the panel of experts appeared to have ties to the e-cigarette industry. She noted that the European Respiratory Society offered an alternative to the England study, pushing back against the 95 percent less harmful claim.

M. NYSSSEN emphasized that e-cigarette use sustains the addiction to nicotine and that the manufacturers have taken no steps to have them tested and approved as cessation devices.

CHAIR COSTELLO asked her to send "The Lancet" editorial she referenced; she would distribute it and the other articles referenced today to the members.

2:37:07 PM

GREGORY CONLEY, President, American Vaping Association (AVA), Medford, New Jersey, stated that AVA strongly opposes the tax portion of SB 45, but he was not defending the Snapchat drug dealers selling to youth or the Snapchat vape sales of unauthorized products. He said law enforcement needs to stop

those sales and companies like Puff Bar are already in violation of the law. Any store in Alaska selling those is subject to FDA enforcement.

MR. CONLEY referenced earlier testimony and stressed that the only irreversible lung damage and/or death from vaping came when a drug dealer sold contaminated illicit THC cartridges. He pointed out that taxing these products would not stop that kind of activity. Rather, it will only discourage adult smokers from quitting. He made the final point that Alaska retailers are permitted to ship to Alaska consumers via USPS.

2:39:55 PM

JAY OKU, Government Relations Director, Five Pawns, Orange County, California, stated that this nonprofit helps adults transition from smoking with maturely branded, meticulously manufactured harm-reduction products. He voiced support for T 21 and advocated for tobacco harm-reduction technology. He acknowledged that it is preferable if nobody smokes or vapes, but pointed out that the peer-reviewed science illustrates that e-cigarettes are a magnitude less harmful than smoking. He said it is Five Pawns' goal to help offset the leading cause of preventable deaths with this technology.

MR. OKU disputed the statements that the FDA has said nothing about safely utilizing vaping as a tool. He cited Dr. Scott Lee and Mitch Zeller [former director of the FDA Center for Tobacco Products]. They talked about utilizing vaping as a tool to switch from cigarettes and that it would be good for public health if every smoker switched from cigarettes to a non-combustible product like e-cigarettes.

He said that despite the rhetoric from proponents of this bill, 480,000 people die each year from smoking related disease. Studies screened from international academic literature between 2018 and 2020 indicate that vaping is mainly concentrated in young people who have experience smoking and less than one percent of those young people who have never smoked are current vapers. Furthermore, 10 years after e-cigarettes emerged, smoking rates among 18-24 year olds declined 47 percent. He maintained that the increasingly incorrect perception about the harms of vaping could prevent some adult smokers from using vaping products to quit smoking.

MR. OKU cited Alaska data to make the point that specialty vape shops are not the problem. From January 2018 to September 2019, he said the FDA administered 464 tobacco age-compliance

inspections in Alaska and just one percent involved the sale of cigarettes or vaping devices. He said the culprit is the black market and youth and parents need to be educated.

MR. OKU reported that Alaska received \$83.2 million in tobacco taxes and tobacco settlement payments in 2019, but the state spent just 10 percent of that to fund tobacco control programs, including education and prevention. He said tobacco sales in Alaska generated \$40 million in 2018 and he believes that excess taxation will kill Alaskan businesses and grow a black market.

MR. OKU thanked the committee for taking time to hear the facts and not rushing to judgment and committed to email the studies he referenced.

[2:44:34 PM](#)

LINDSEY STRAUD, Policy Analyst, Tax Payers Alliance, Washington, D.C., stated that vapor products are tobacco harm-reduction tools that have helped millions of adults quit smoking, so they should not be subject to sin taxes.

She conveyed that in 2019, 45.8 percent of high school students reported having tried e-cigarettes; 26.1 percent reported use in the past 30 days; and 4.5 percent reported daily use of vapor products. She highlighted the all-time low use of combustible cigarettes by youth in 2019. Just 27.5 percent of Alaska high school students reported ever trying cigarettes, which is a 62 percent reduction from 1995. Reported use in the past 30 days reduced from 36.5 percent in 1995 to 8.4 percent in 2019.

MS. STRAUD referenced earlier testimony and explained that predominant e-cigarette use by 18-24 year olds correlates with a major decrease in use in that age bracket.

Noting that she submitted written testimony that included analyses from other states, she posited that vapor taxes have not deterred youth from using e-cigarettes.

MS. STRAUD said Alaska is ranked second in funding tobacco control programs. Over a 20-year period, Alaska allocated just \$143.9 million towards tobacco control programs yet it received over \$1 billion in cigarette taxes and \$567.8 million in tobacco tax settlement payments over that same time. For further perspective, she said that Alaska spent about \$94 per smoker on tobacco control programs in 2019. She suggested that rather than imposing sin taxes, Alaska should allocate additional existing tobacco money to youth prevention and education programs.

2:47:39 PM

ALEX CLARK, CEO, Consumer Advocates for Smoke-free Alternatives Association (CASAA), Plattsburgh, New York, stated that this 501(c)(4) nonprofit consumer advocacy organization is dedicated to promoting tobacco harm reduction as a necessary strategy to reduce early death and disease from smoking. He was speaking on behalf of more than 600 Alaskan members who are concerned about the ability to continue to access safer nicotine products.

He said CASAA opposes the taxing provision in SB 45 and raising the age to purchase to 21, particularly criminalizing possession and use. He described it as adding insult to injury for young people caught using these products, particularly when 18-20 year olds are considered adults in many other situations.

MR. CLARK suggested it was time to reset the narrative on who makes up the industry and its consumers. He related that he did not have success trying to quit smoking until he stopped listening to public health authorities and started listening to his dad who successfully switched from smoking to using nicotine gum. He maintained that it is not as difficult to quit smoking as it is made out to be and that there are plenty of resources to help. It is a matter of having all the options on the table, he said.

MR. CLARK summarized that CASAA is opposed to SB 45. It is inaccurate to treat vaping products as tobacco products, to tax them as such, or to say they carry the same risk. He said people trying to quit smoking made these products and consumers added flavors. He maintained that vaping products democratized nicotine because consumers are no longer reliant on incumbent cigarette companies or pharmaceutical companies to access the safer form of nicotine. He suggested the legislature instead focus on beefing up education programs that present facts, not propaganda.

2:53:03 PM

CHAIR COSTELLO closed public testimony on SB 45.

SENATOR STEVENS said it is clear that the state gets a lot of money from tobacco cessation and it should spend more money on education.

CHAIR COSTELLO asked Ms. Steffens to comment on previous testimony on the imbalance between the money the state receives from tobacco taxes and spends on education/cessation programs.

2:54:01 PM

KATIE STEFFENS, Public Health Specialist, Division of Public Health, Department of Health and Social Services (DHSS), Anchorage, Alaska, advised that the state spends \$550,000 on the Alaska Tobacco Quit Line, which provides free counseling and nicotine replacement therapy in the form of gum and lozenges.

CHAIR COSTELLO asked what the state receives from the tobacco tax.

MS. STEFFENS replied the state received \$8 million last fiscal year.

2:55:21 PM

SENATOR STEVENS asked, other than vaping, what cessation therapies and programs are available in Alaska.

MS. STEFFENS reminded the committee that e-cigarettes are not a recognized cessation device in this country. She continued to say that along with the Alaska Tobacco Quit Line, the department funds 23 community grantees to conduct education through the state. They talk with schools and other partners in the area to spread information about e-products and tobacco products in general.

CHAIR COSTELLO asked if information about the grant is available online so the members could see where the funds are going.

MS. STEFFENS answered yes and she would send the annual fiscal report as well. In response to a further question, she said the quit line number is 1-800-quit-now.

CHAIR COSTELLO asked Mr. Darnell to describe his efforts regarding underage sales of tobacco and vaping products.

2:57:22 PM

JOE DARNELL, Investigator, Tobacco Section, Division of Behavioral Health, Department of Health and Social Services (DHSS), Anchorage, Alaska, explained that student interns work in the program to check vaping and tobacco retailers to ensure they are complying with the underage laws. They also do premise inspections to see that retailers are following licensing laws and offer certification programs to help retailers establish policies to prevent underage sales.

SENATOR GRAY-JACKSON asked if there are criteria to qualify for free counseling.

MS. STEFFENS replied a person must be 18 years of age or older to use the quit line, but the department recently added a service to help parents be quit champions for youth under age 18 and to educate parents on the harmful effects of e-cigarettes and how to help their kids quit.

CHAIR COSTELLO asked if a particular statute or legal prohibition requires that help for a nicotine addiction can only be given to people 18 years of age or older.

MS. STEFFENS replied is an informed consent state so the Alaska Quit Line can only offer help to those 18 and older.

CHAIR COSTELLO how many parents use the service for their children.

MS. STEFFENS offered to follow up with the information.

[3:00:52 PM](#)

SENATOR STEVENS asked if there is something that should be done but isn't to help kids who are addicted.

MS. STEFFENS replied that taxing tobacco products is the most effective way for youth and young adults to stop or even begin using these products. Price increases also helps people of lower socioeconomic status to stop using these products. Further, raising the age to 21 would meet federal regulations and provide clarity on enforcement.

CHAIR COSTELLO asked for the penalty for an underage person who sells or possesses tobacco products.

MS. STEFFENS deferred the question to Mr. Darnell.

[3:02:13 PM](#)

MR. DARNELL said the penalty ranges from \$300 to \$500 for a clerk who sells to somebody who is underage.

CHAIR COSTELLO asked for the penalty for possession by somebody who is underage.

MR. DARNELL answered the statute provides a \$500 penalty.

CHAIR COSTELLO asked if he had data on the number of youth found guilty of possession who pay the \$500 fine.

MR. DARNELL offered to follow up with the information.

CHAIR COSTELLO also asked him to provide the number of clerks who are found guilty and pay the fine for selling to somebody who is underage.

CHAIR COSTELLO held SB 45 in committee for future consideration.

[3:04:18 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:04 p.m.